

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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ELBERT MITCHELL,

Petitioner,

07 CIVIL 4688 (LTS)(AJP)

-against-

JUDGMENT

DALE ARTUS, Superintendent,
Clinton Correctional Facility,

Respondent.
-----X

SCANNED

Whereas on June 2, 2008, the Honorable Andrew J. Peck, United States Magistrate Judge, having issued a report and recommendation ("report") recommending that the petition for a writ of habeas corpus under 28 U.S.C. 2254 be denied, and the matter having come before the Honorable Laura T. Swain, United States District Judge, and the Court, thereafter, on August 21, 2008, having rendered its Order adopting the report in its entirety and denying the petition for a writ of Habeas Corpus, it is,


ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Order dated August 21, 2008, the report is adopted in its entirety and the petition for a writ of habeas corpus is denied; the Court finds that because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue.

DATED: New York, New York
August 22, 2008

J. MICHAEL McMAHON

Clerk of Court

BY:



Deputy Clerk.

**THIS DOCUMENT WAS ENTERED
ON THE DOCKET ON _____**